RECENT DECISIONS

AUTOMOBILES—CARE REQUIRED OF AUTOMOBILE DRIVERS—PEDESTRIANS.—Pedestrians on a highway were overtaken by an automobile which injured one of them. *Held*, the driver of an automobile should not only give reasonable warning of his approach, but should use every reasonable precaution to insure safety, and if in a sudden panic, caused by the negligence of the driver, a pedestrian runs in front of the car he is not guilty of contributory negligence. *Raymond* v. *Hill* (Cal.), 143 Pac. 743.

An interesting question raised in the principal case is whether the driver of an automobile may assume that a pedestrian walking along a highway, in the same direction as the automobile, will continue in his course and not veer in the way of the machine when it endeavors to pass. In general, persons walking on railroad tracks are trespassers or licensees on a private way and due to this fact and further to the difficulty of slowing up or stopping a train, it is held that an engineer may assume that one walking on the track will get out of the way and accordingly is not obliged to slacken speed. *Louisville, etc., R. R. Co.* v. *Black*, 89 Ala. 313, 8 South. 246; *Terre Haute, etc., R. R. Co.* v. *Graham*, 95 Ind. 286. An automobile driver being on a public way however, must keep a proper lookout, and have his machine under such control as will enable him to avoid collision with a pedestrian and if necessary must slow up or even stop. Keeping within the statutory speed limit, or sounding the horn, without more, is not sufficient. *Thies* v. *Thomas* (Sup. Ct. T. T.), 77 N. Y. Supp. 276; *Kessler* v. *Washburn*, 157 Ill. App. 532. The principal case is sound in holding that a pedestrian who in a moment of panic caused by the negligence of the driver of an automobile jumps in front of the machine is not guilty of contributory negligence. *Kessler* v. *Washburn*, *supra*.

Due care as a matter of law does not require a pedestrian on a public highway to keep a constant lookout. *Graham* v. *Evening Press Co.*, 135 Mich. 298, 97 N. W. 697; *Hennessey* v. *Taylor*, 189 Mass. 583, 76 N. E. 224, 3 L. R. A. (N. S.) 345; *O'Dowd* v. *Newham* (Ga.), 80 S. E. 36. The automobilist having it in his power to do the greatest harm in event of collision, must therefore exercise a higher degree of care than a pedestrian or the driver of horses. *O'Dowd* v. *Newham, supra; Simeone* v. *Lindsay*, 6 Pennewill (Del.), 224, 65 Atl. 778; *Williams* v. *Benson*, 87 Kan. 421, 124 Pac. 531. An automobile driver will be conclusively presumed to have seen everything in his line of vision that he could have seen in the proper performance of his duty to look ahead. *McDonald* v. *Yoder*, 80 Kan. 25, 101 Pac. 468; *Kathmeyer* v. *Mehl* (N. J.), 60 Atl. 40. And a pedestrian has the right to assume that an approaching automobile will not run over him. *Marsh* v. *Boyden*, 33 R. I. 519, 82 Atl. 393, 40 L. R. A. (N. S.) 582; *Kathmeyer* v. *Mehl, supra; Kessler* v. *Washburn, supra*. It is held gross negligence to continue the movement of an au-

tomobile when the driver is blinded by the glare of the headlight of a street car. *Jaquith* v. *Worden* (Wash.), 132 Pac. 33. Greater care is required of the driver of an automobile at the intersection of streets than ordinarily, and especially so if traffic obstructs the vision. *Gregory* v. *Slaughter*, 124 Ky. 345, 99 S. W. 247, 124 Am. St. Rep. 402, 8 L. R. A. (N. S.) 1228. It has been held negligence as a matter of law, to run past a street car at the rate of six or seven miles an hour when the automobilist knows the car is taking on or discharging passengers. *Brewster* v. *Barker*, 129 App. Div. 724, 113 N. Y. Supp. 1026.

An automobile driver is bound to exercise greater care while traveling on the left side of the street, to avoid injuring pedestrians, than is required if he had been on the proper side. *New York Transp. Co.* v. *Garside* (C. C. A.), 157 Fed. 521. A driver, to be exercising ordinary care, need not anticipate that another automobile will violate the law of the road by driving on the wrong side of the street. *Trout Auto Livery Co.* v. *People's Gas Light & Coke Co.*, 168 Ill. App. 56. And a driver on the right side of the road, may assume that a person approaching him on the same side will, if there be room, cross over to the right side before passing, and need not bring his car to a standstill. *Clark* v. *Woop*, 159 App. Div. 437, 144 N. Y. Supp. 595.

The greatest care must be used when approaching children, and to run an automobile through a crowd of children at five or six miles per hour is gross negligence. *Haake* v. *Davis* (Mo.), 148 S. W. 450. It is to be noted also, that those employed on the highways and streets are not called upon to exercise the same diligence in avoiding collisions as pedestrians. *Graves* v. *Portland Ry. Light & Power Co.* (Ore.), 134 Pac. 1. It follows then, that an automobile driver must exercise greater care in such a case. *Burger* v. *Taxicab Motor Co.*, 66 Wash. 676, 120 Pac. 519.

An automobile driver, when ordinary precaution requires it, must stop his machine when he sees that horses are becoming frightened. Sounding the horn and slowing up without more, is not sufficient if ordinary care requires more, and the automobilist is not relieved from duty to stop because the driver of the horse gives no signal to stop. *Nelson* v. *Halland* (Minn.), 149 N. W. 194; *Strand* v. *Grinnell Auto Gar. Co.*, 136 Iowa 68, 113 N. W. 488. See *Messer* v. *Brueing*, 25 N. D. 599, 142 N. W. 158, 48 L. R. A. (N. S.) 945.

It would seem, on the question raised in the principal case, in view of the strict accountability to which automobile drivers are held, that they may not assume that a pedestrian will keep on his way, but must keep their machines under such control that if the pedestrian should, at the last moment, step out in front of the machine, they could stop in time to avoid injury.

BANKRUPTCY—PETITION—PROCEEDINGS AGAINST PARTNERSHIP.—A partnership was adjudged bankrupt. Later, without the filing of another petition, the court tried the question of membership in the firm of an alleged secret partner, who was not joined in the original petition, and attempted to administer his estate in the proceedings, without finding